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8 UNITED STATES BANKRUPTCY COURT
9 EASTERN DISTRICT OF CALIFORNIA
10 FRESNO DIVISION

11	In re	)	Case No. 21-11034
12		)	DC No: PFR-1
13		)	Chapter 7
14)	
15	ESPERANZA HANSEN GONZALEZ	)	MOTION FOR RELIEF FROM THE
16		)	AUTOMATIC STAY UNDER 11 U.S.C.
17		)	§362 (WITH SUPPORTING
18		)	DECLARATIONS)
19)	
20	Debtor.	)	Date: August 11, 2021
21		)	Time: 1:30 p.m.
22		)	Dept: 2500 Tulare Street
23		)	Courtroom 11, 5 th Floor
24		)	Fresno, CA 93721

25 MOTION FOR RELIEF FROM STAY

26 TO THE HONORABLE JENNIFER E. NIEMANN, BANKRUPTCY JUDGE:

27 Ron and Vickie Mullins (hereinafter "Movants"), hereby move this court for an order
28 relieving them from the automatic stay in support of that motion alleges as follows:

1. This court has jurisdiction over this contested matter pursuant to 28 U.S.C. Section 1334 and 157(b)(2)(g) and 11 U.S.C. Section 362.

2. Esperanza Hansen Gonzalez, (hereinafter "Debtor") filed her petition under Chapter 7 of the Bankruptcy Code (U.S.C. Section 101, et seq.) on April 23, 2021. James

1 Edward Salven has been appointed trustee in the Debtor's Chapter 7 case.

2 3. Movants were and at all times herein mentioned are residents of the State of
3 California

4 4. Movants are the Plaintiffs in a lawsuit now pending in the State of California
5 Superior Court, County of San Luis Obispo, Case No. 17CV-0030 (consolidated with 18CVP-
6 0323), entitled Ron and Vickie Mullins vs. Esperanza Hansen (the "State Court Action").

7 5. Pursuant to an order entered in the State Court Action on September 25, 2019, a true
8 and correct copy of which is attached to the Request for Judicial Notice filed herewith as
9 Exhibit "A", Movant's were granted a prejudgment writ of attachment on various real
10 properties owned by the Debtor in Visalia and Tulare, California.

11 6. Movant's prejudgment attachment lien was duly recorded and perfected on January
12 20, 2020, by a Notice of Attachment recorded in the official records of Tulare County,
13 California as document no. 2020-0002517, a true and correct copy of which is attached to the
14 Request for Judicial Notice filed herewith as Exhibit "B."

15 7. On March 19, 2021, the Honorable Linda Hurst entered her Final Statement of
16 Decision in the State Court Action, awarding Movants, at page 16, lines 14 and 15, damages
17 in the amount of \$106,484.96 together with attorneys fees and costs, a true and correct copy of
18 which is attached to the Request for Judicial Notice filed herewith as Exhibit "C."

19 8. No judgment was entered in the State Court Action as a result of the Debtor filing
20 this bankruptcy proceeding on April 23, 2021.

21 9. Movants now seek relief from stay in order to, under applicable non-bankruptcy
22 law, to proceed to final judgment. More specifically, Movants seek the entry of judgment
23 pursuant to the Final Statement of Decision, including damages in the amount of \$106,484.96
24 and the determination and award of their attorneys fees and costs, and to perfect their
25 prejudgment attachment lien (See: *Diamant v. Kasparian* (9th Cir C.A.1998) 165 F.3d. 1243).
26 Movants do not seek relief to enforce their judgment lien against the Debtor or the Debtor's
27 estate.
28

1 8. This motion is brought pursuant to 11 U.S.C. Section 362(d)(1) and Local
2 Rules 4001-1 and 9014-1(f)(1). This motion is based on the Relief from Stay Summary Sheet,
3 the Notice, Memorandum of Points and Authorities, the Request for Judicial Notice, and the
4 Exhibit List, all of which have been filed and served herewith, as well as the papers,
5 pleadings, files and records of this Court, and upon such oral and documentary evidence as
6 may be put forth at the time of the hearing, if any.

7 9. Good cause exists for modification of the automatic stay of 11 U.S.C. Section
8 362(d)(1) of the Bankruptcy Code in order to allow Movants to proceed against the Debtor in
9 the State Court Action in order to obtain a final judgment and to perfect their prejudgment
10 lien.

11 10. The imposition of the automatic stay has prevented Movants from proceeding
12 against the Debtor in the State Court Action and thereby obtaining the benefits of the being
13 awarded a final judgment for damages and their attorney fees and costs.

14 11. By reason of the foregoing, good cause exists to modify the automatic stay
15 under 11 U.S.C. Section 372(d)(1) of the Bankruptcy Code in order to permit Movant to
16 proceed against the Debtor in the State Court Action and limiting Movant's rights to obtaining
17 a final judgment and taking any further appropriate actions to perfect their judgment lien.

18 WHEREFORE, Movant prays for:

19 1. Modify the automatic stay as to the Debtor to permit Movants to proceed
20 against Debtor in the State Court Action to the extent needed to proceed to enter judgment
21 against Debtor and to perfect and maintain their prepetition liens; and

22 2. Grant Movant such other and further relief as is just and proper.

23
24 Dated: July 6, 2021

FARMER & READY

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27 By: _____

Paul F. Ready, Esq.
Attorney for Movants
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